

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN GARRETT SMITH,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

CASE NO. 3:23-cv-05142-TL-JRC

ORDER ADOPTING REPORT
AND RECOMMENDATION

Having reviewed the Report and Recommendation of Magistrate Judge J. Richard Creatura and the remaining record, and no objections or responses to the Report and Recommendation having been filed, the Court does hereby find and ORDER:

- (1) The Report and Recommendation (Dkt. No. 5) is ADOPTED.
- (2) Petitioner's federal habeas petition is DISMISSED for lack of jurisdiction.
- (3) Petitioner's motion for leave to proceed *in forma pauperis* is DENIED as moot.
- (4) A certificate of appealability is DENIED in this case.

1 (5) The Clerk is DIRECTED to send copies of this Order to Petitioner and to the
2 Honorable J. Richard Creatura.

3 Dated this 18th day of April 2023.

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6 Tana Lin
7 United States District Judge
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